

§ 170.3

geographical region or to firms having a particular level of capital assets or which engage in a specified amount of business per year.

[48 FR 35305, Aug. 3, 1983]

§ 170.3 Fair and equitable representation of members (section 17(b)(5) of the Act).

A futures association must assure fair and equitable representation of the views and interests of all association members in the procedures providing for the adoption, amendment or repeal of any association rule, in an association's procedure for the selection of association officers and directors and in all other phases of the association's affairs and activities, including disciplinary and membership hearings. No single group or class of association members shall dominate or otherwise exercise disproportionate influence on any governing board of an association or on any disciplinary or membership panel of such an association. Non-members of the association shall be represented wherever practicable on any board or hearing panel of the association.

§ 170.4 Allocation of dues (section 17(b)(6) of the Act).

Dues imposed on members of a futures association must be allocated equitably among members and may not be structured in a manner constituting a barrier to entry of any person seeking to engage in commodity-related business activities.

§ 170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of an adherence to the ethical standards, and to monitor and enforce com-

17 CFR Ch. I (4-1-10 Edition)

pliance with the customer and option customer protection program and rules.

(Secs. 2(a)(1), 4c(a)-(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)-(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b))

[47 FR 57020, Dec. 22, 1982]

§ 170.6 Disciplinary proceedings (sections 17(b)(8) and (b)(9) of the Act).

A futures association must provide a fair and orderly procedure with respect to disciplinary actions brought against association members or persons associated with members. These rules governing such disciplinary actions shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act. In addition, an association, in disciplining its members should demonstrate that it will:

(a) Take vigorous action against those who engage in activities in violation of association rules;

(b) Conduct proceedings in a manner consistent with the fundamental elements of due process; and

(c) Impose discipline which is fair and has a reasonable basis in fact.

(Approved by the Office of Management and Budget under control number 3038-0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.7 Membership denial (section 17(b)(9) of the Act).

A futures association must provide a fair and orderly procedure for processing membership applications and for affording any person to be denied membership an opportunity to submit evidence in response to the grounds for denial stated by the association. The procedures governing denials of membership in the association shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act.

(Approved by the Office of Management and Budget under control number 3038-0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.8 Settlement of customer disputes (section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capacity to promulgate rules and to conduct proceedings

that provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with section 17(b)(10) of the Act and be consistent with the guidelines and acceptable practices for dispute resolution found within appendix A and appendix B to part 38 of this chapter.

[66 FR 42288, Aug. 10, 2001]

§ 170.9 General standard.

An applicant seeking registration as a futures association by the Commission must demonstrate the association's ability to comply with standards and requirements set forth in this part. The applicant must also demonstrate its ability to satisfy the provisions of section 17 of the Act as well as other applicable legal considerations, including that the association will promote fair and open competition among its members and will conduct its affairs consistent with the public interest to be protected by the antitrust laws. The Commission shall not register an applicant association unless the Commission finds that the applicant has satisfied the conditions and requirements of section 17 of the Act and of this part and that registration will be in the public interest.

§ 170.10 Proficiency examinations (sections 4p and 17(p) of the Act).

A futures association may prescribe different training standards and proficiency examinations for persons registered in more than one capacity: *Provided*, That nothing contained in the Act or these regulations, including any exemption from registration for persons registered in another capacity, shall be deemed to preclude the establishment of training standards and a proficiency examination requirement for functions performed in such other capacity.

[48 FR 35305, Aug. 3, 1983]

Subpart B—Registration Statement of Futures Associations to be Submitted to the Commission

§ 170.11 Form of registration statement; review of registration statement.

(a) Any association seeking registration by the Commission as a futures association must file with the Commission a letter requesting that the association be registered by the Commission as a futures association and accompany the letter with the following: (1) The constitution, charter or articles of incorporation of the association, (2) the bylaws of the association, (3) any other rules, resolutions or regulations of the association corresponding to the foregoing, (4) a detailed description of the association's organization, membership and rules of procedure and (5) a detailed statement of the association's capability to comply with the provisions of section 17 of the Act and this part. This letter and the accompanying information shall be considered as the registration statement of the association. This letter and the accompanying information shall be filed with the Secretariat of the Commission at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

(b) At any time after an applicant's registration statement has been filed, the applicant association shall submit to the Commission any supporting or additional information concerning the application of the association as the Commission may request.

(c) If it appears to the Commission, after reviewing any registration statement filed by an applicant association, that the applicant has not satisfied the requirements for registration set forth in section 17 of the Act or of this part, the Commission may, in its discretion, notify the applicant in writing to that effect. Such notice shall specify those requirements of section 17 or of this part which do not appear to have been satisfied and shall afford the applicant a period of at least 60 days in which to respond to the Commission's notice by demonstrating or achieving compliance with the requirements specified by the Commission or otherwise. An applicant